IN THE UTAH COURT OF APPEALS

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| Sean Bernat, | ) | |
| Petitioner, | ) | ORDER DENYING |
| v. | ) | PETITION FOR |
| | ) | EXTRAORDINARY |
| The Honorable Michael | ) | RELIEF |
| G. Allphin, | ) | |
| Respondent. | ) | Case No. 20030238-CA |
| | ) | |

Before Judges Jackson, Greenwood and Orme.

Petitioner Sean Bernat seeks a writ of mandamus directing the Respondent to grant a motion to dismiss all charges based upon claimed constitutional violations of double jeopardy, due process and equal protection.

This court rejected the identical constitutional claims asserted in this petition. See, e.g., Taylor v. Lubeck, 2003 Ut App 113 (per curiam) ; Ulmer v. Lubeck, 2003 UT App 110 (per curiam) ; see also Kee v. Lubeck, 2003 UT App 177 (per curiam); Lang v. Boyden, 2003 UT App 176 (per curiam); Beuchert v. Lubeck, 2003 UT App 174 (per curiam); Kvenvold v. Burton, 2003 UT App 173 (per curiam). Accordingly, we held that "[i]n the absence of a demonstration that application of rule 4-608 of the Code of Judicial Administration violates [Petitioner's] substantial constitutional rights, there is no basis from which to conclude that either 'gross or flagrant abuse of discretion' or 'particularly egregious and momentous legal error' has occurred to justify granting the petition." Taylor, 2003 UT App 113 at ¶12; Zakharian, 2003 UT App 111 at ¶12; Ulmer, 2003 UT App 110 at ¶12 (each quoting State v.

Stirba, 972 P.2d 918, 922 (Utah Ct. App. 1998)). We conclude that there is no basis on which to distinguish the claims in the present petition from those rejected by this court in Zakharian, Taylor, Ulmer, and similar cases.

IT IS HEREBY ORDERED that the petition for writ of mandamus is denied.

Dated this 12th day of June, 2003.

FOR THE COURT:

_____/s/_____
Norman H. Jackson,
Presiding Judge

_____/s/_____
Pamela T Greenwood, Judge

_____/s/_____
Gregory K. Orme, Judge

FILED
Utah Court of Appeals
June 12, 2003
Paulette Stagg
Clerk of the Court